

REMARKS

Claims 1- 45 are pending in the application. Claim 20 has been amended. Accordingly, claims 1-45 will remain pending in the application.

Support for the amendment of claim 20 can be found throughout the specification and claims as originally filed, at least, for example, in claims 1 and 17 as originally filed. No new matter has been added.

Amendment of the claims was done solely to expedite prosecution. Applicants hereby preserve the right to pursue the claims as originally file, or similar claims, in this or one or more subsequent patent applications.

The Examiner has required restriction under 35 U.S.C. §§ 121 and 372 to one of the following:

- GROUP I:** Claim(s) 1-16, drawn to an isolated nucleic acid molecule comprising a sequence encoding an enzyme that desaturates an n-6 fatty acid to a corresponding n-3 fatty acid, for example the enzyme is a C. elegans fat-1 gene, wherein the sequence includes at least one optimized codon, an expression vector comprising said nucleic acid, and a host comprising said vector or nucleic acid;
- GROUP II:** Claim(s) 17-19, drawn to a non-human transgenic animal comprising the nucleic acid of claim 1, wherein the non-human transgenic animal is a mammal;
- GROUP III:** Claim(s) 20 and 21, drawn to a food product or dietary supplement comprising the non-human transgenic animal of claim 17 or tissue or processed part thereof, and a method of improving the content of n-3 fatty acid in a subject's diet by administering to the subject the food product or dietary supplement;
- GROUP IV:** Claim(s) 22 and 23, drawn to a method of treating a patient having cancer by administering the patient a therapeutically effective amount of the nucleic acid molecule of claim 1.
- GROUP V:** Claim(s) 24-26, drawn to a method of inhibiting neuronal cell death in a subject by administering to the subject the nucleic acid molecule of claim 1;

- GROUP VI:** Claim(s) 27 and 28, drawn to a method of treating a subject having a condition associated with an insufficiency of n-3 polyunsaturated fatty acid (PUFA) or an imbalance in the ratio of n-3:n-6 PUFAs by administering to said subject the nucleic acid molecule of claim 1;
- GROUP VII:** Claim(s) 29, drawn to a method of treating a subject having received a transplant by administering to the subject or the transplant the nucleic acid molecule of claim 1;
- GROUP VIII:** Claim(s) 17-19 and 30-37, drawn to a non-human transgenic animal comprising the nucleic acid of claim 1, wherein the non-human transgenic animal is a transgenic fish;
- GROUP IX:** Claim(s) 17-19 and 38-45, drawn to a non-human transgenic animal comprising the nucleic acid of claim 1, wherein the non-human transgenic animal is a transgenic bird.

Applicants hereby elect Group III, claims 20 and 21, subject to the following traverse.

Reconsideration and rejoinder of Group II and Group III is respectfully requested. Searching the additional inventions of Group II must constitute an undue burden on the Examiner for restriction to be permissible. MPEP § 803. The MPEP directs the Examiner to search and examine an entire application “[i]f the search and examination of an entire application can be made without serious burden, ... even though it includes claims to distinct or independent inventions.” *Id.* It is respectfully submitted that it would not place an unnecessary burden on the Examiner to search and examine Group III and Group II together, as a search for the food products of Group III would necessarily encompass the non-human transgenic animals of Group II.

In view of the foregoing, the inventions of Group III and Group II of the application represent a web of knowledge and continuity of effort that merits examination in a single application. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the Restriction Requirement or, at a minimum, rejoinder of Groups II and III, and early action on the merits.

Applicant believes that no additional fees, other than that for the extension of time, are required at this time. Nevertheless, Applicant hereby authorizes the Director to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 64624(51588).

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Respectfully submitted,

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